

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**DANA BERNHARDT et al.,**

)

)

**Plaintiffs-Appellants,**

)

)

**v.**

)

**Case No. 21-7018**

)

**ISLAMIC REPUBLIC OF IRAN et al.,**

)

)

**Defendants-Appellees.**

)

**FILING OF UNDERLYING DECISION**

The appeal in this matter arises from an Order of the United States District Court for the District of Columbia, dated January 28, 2021, entering final judgment as to the HSBC Defendants. That Order incorporated the District Court's November 16, 2020 Order granting the HSBC Defendants' Motion to Dismiss. As directed by this Court's Order, filed March 1, 2021 [1530091], copies of these Orders are attached hereto as Exhibits A and B, respectively. A copy of the Judgment in a Civil Action entered on January 28, 2021 is attached as Exhibit C.

Respectfully submitted,

\_\_\_\_\_/s/ Kevin A. Hoffman

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*Counsel for Plaintiffs-Appellants*

## Exhibit A

**Kevin Hoffman**

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**From:** DCD\_ECFNotice@dcd.uscourts.gov  
**Sent:** Thursday, January 28, 2021 10:34 AM  
**To:** DCD\_ECFNotice@dcd.uscourts.gov  
**Subject:** Activity in Case 1:18-cv-02739-TJK BERNHARDT et al v. ISLAMIC REPUBLIC OF IRAN  
Order on Motion for Entry of Final Judgment

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U.S. District Court

District of Columbia

**Notice of Electronic Filing**

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**Case Name:** BERNHARDT et al v. ISLAMIC REPUBLIC OF IRAN

**Case Number:** [1:18-cv-02739-TJK](#)

**Filer:**

**Document Number:** No document attached

**Docket Text:**

**MINUTE ORDER granting Plaintiffs' Unopposed [40] Motion for Entry of Final Judgment as to HSBC Holdings plc, HSBC Bank plc, HSBC Bank USA N.A., and HSBC North America Holdings Inc. (collectively "the HSBC Defendants"). In its [37] Order, this Court dismissed Counts II and III of the [10] Amended Complaint. Only Count I, against the Islamic Republic of Iran, remains. ECF No. 10. Rule 54(b) of the Federal Rules of Civil Procedure provides that "[w]hen an action presents more than one claim for relief whether as a claim, counterclaim, crossclaim, or third-party claim or when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay." This determination weighs both "justice to the litigants" and "the interest of sound judicial administration." *CurtissWright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 6, 8 (1980). See also *Brooks v. Dist. Hosp. Partners, L.P.*, 606 F.3d 800, 806 (D.C. Cir. 2010). First, the factors affecting "justice to the litigants" are case specific. *CurtissWright Corp.*, 446 U.S. at 8. Here, the Court's [37] Order, dismissed all claims against the HSBC Defendants, who have "no involvement or interaction" with the claims included in the remaining count against Iran. ECF No 40 at 3. The Order was an ultimate disposition of all cognizable claims for relief against the HSBC Defendants. This fact, combined with the parties' interest in a timely resolution of the dispute and the potential for delay due to Iran's status as a foreign sovereign, counsel in favor of entry of final judgment to promote "justice to the litigants." Second, the factors pertaining to judicial administration include "whether the claims under review [are] separable from the others remaining to be adjudicated and whether**

the nature of the claims already determined [is] such that no appellate court [will] have to decide the same issues more than once even if there [are] subsequent appeals." *CurtissWright Corp.*, 446 U.S. at 8. Count II and III are separable from Count I as they are based on different legal theories. The Court dismissed the Justice Against Sponsors of Terrorism Act claims contained in Counts II and III for lack of personal jurisdiction over the non-U.S. HSBC Defendants and failure to state a claim as to all the HSBC Defendants. ECF No. 38. The remaining claims against Iran are brought under the Foreign Sovereign Immunities Act. Any appeal of Count I would not require the appellate court to decide the same issues considered in an appeal of Counts II and III. Therefore, entry of final judgment as to the HSBC defendants is in the interest of sound judicial administration. The Court thereby directs the entry of final judgment as to the HSBC Defendants and finds that there is no just reason to delay an appeal of such claims. Signed by Judge Timothy J. Kelly on 1/28/21. (lctjk2)

**1:18-cv-02739-TJK Notice has been electronically mailed to:**

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## Exhibit B

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DANA MARIE BERNHARDT *et al.*,

*Plaintiffs,*

v.

ISLAMIC REPUBLIC OF IRAN *et al.*,

*Defendants.*

Civil Action No. 18-2739 (TJK)

**ORDER**

For the reasons set forth in the Court's accompanying Memorandum Opinion, it is hereby **ORDERED** that the HSBC Defendants' Motion to Dismiss, ECF No. 32, is **GRANTED**, and Counts II and III of the Amended Complaint asserted against Defendants HSBC Holdings PLC, HSBC Bank PLC, HSBC Bank USA, N.A., and HSBC North America Holdings Inc. are **DISMISSED**.

**SO ORDERED.**

/s/ Timothy J. Kelly  
TIMOTHY J. KELLY  
United States District Judge

Date: November 16, 2020

## Exhibit C

UNITED STATES DISTRICT COURT  
for the  
District of Columbia

DANA MARIE BERNHARDT et al

Plaintiff

v.

ISLAMIC REPUBLIC OF IRAN

Defendant

Civil Action No. 18-CV-2739 (TJK)

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

☐ the plaintiff (*name*) \_\_\_\_\_ recover from the  
defendant (*name*) \_\_\_\_\_ the amount of  
\_\_\_\_\_ dollars (\$ \_\_\_\_\_), which includes prejudgment  
interest at the rate of \_\_\_\_\_ %, plus postjudgment interest at the rate of \_\_\_\_\_ %, along with costs.

☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (*name*) \_\_\_\_\_  
\_\_\_\_\_ recover costs from the plaintiff (*name*) \_\_\_\_\_

☒ other: ORDERED that entry of final judgment as to the HSBC defendants is in the interest of sound judicial  
administration. The Court thereby directs the entry of final judgment as to the HSBC Defendants and finds  
that there is no just reason to delay an appeal of such claims. (Per minute order dated 1/28/2021)

This action was (*check one*):

☐ tried by a jury with Judge \_\_\_\_\_ presiding, and the jury has  
rendered a verdict.

☐ tried by Judge \_\_\_\_\_ without a jury and the above decision  
was reached.

☒ decided by Judge Timothy J. Kelly \_\_\_\_\_ on a motion for  
Entry of Final Judgment.

Date: 01/28/2021

ANGELA D. CAESAR, CLERK OF COURT



*Katrina*

2021.01.28

12:15:24 -05'00'

Signature of Clerk or Deputy Clerk